

78A-2-101. Title.

This chapter is known and cited as the "Judicial Administration Act."

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-102. Purpose.

The purpose of this chapter is to create an administrative system for all courts of this state, subject to central direction by the Judicial Council, to enable these courts to provide uniformity and coordination in the administration of justice.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-103. Definitions.

As used in this chapter:

(1) "Administrator" means the administrator of the courts appointed under Section 78A-2-105.

(2) "Conference" means the annual statewide judicial conference established by Section 78A-2-111.

(3) "Council" means the Judicial Council established by Article VIII, Sec. 12, Utah Constitution.

(4) "Courts" mean all courts of this state, including all courts of record and not of record.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-104. Judicial Council -- Creation -- Members -- Terms and election -- Responsibilities -- Reports -- Guardian Ad Litem Oversight Committee.

(1) The Judicial Council, established by Article VIII, Section 12, Utah Constitution, shall be composed of:

(a) the chief justice of the Supreme Court;
(b) one member elected by the justices of the Supreme Court;
(c) one member elected by the judges of the Court of Appeals;
(d) five members elected by the judges of the district courts;
(e) two members elected by the judges of the juvenile courts;
(f) three members elected by the justice court judges; and
(g) a member or ex officio member of the Board of Commissioners of the Utah State Bar who is an active member of the Bar in good standing at the time of election by the Board of Commissioners.

(2) The Judicial Council shall have a seal.

(3) (a) The chief justice of the Supreme Court shall act as presiding officer of the council and chief administrative officer for the courts. The chief justice shall vote only in the case of a tie.

(b) All members of the council shall serve for three-year terms.

(i) If a council member should die, resign, retire, or otherwise fail to complete a term of office, the appropriate constituent group shall elect a member to complete the term of office.

(ii) In courts having more than one member, the members shall be elected to staggered terms.

(iii) The person elected by the Board of Commissioners may complete a three-year term of office on the Judicial Council even though the person ceases to be a member or ex officio member of the Board of Commissioners. The person shall be an active member of the Bar in good standing for the entire term of the Judicial Council.

(c) Elections shall be held under rules made by the Judicial Council.

(4) The council is responsible for the development of uniform administrative policy for the courts throughout the state. The presiding officer of the Judicial Council is responsible for the implementation of the policies developed by the council and for the general management of the courts, with the aid of the administrator. The council has authority and responsibility to:

(a) establish and assure compliance with policies for the operation of the courts, including uniform rules and forms; and

(b) publish and submit to the governor, the chief justice of the Supreme Court, and the Legislature an annual report of the operations of the courts, which shall include financial and statistical data and may include suggestions and recommendations for legislation.

(5) The council shall establish standards for the operation of the courts of the state including, but not limited to, facilities, court security, support services, and staff levels for judicial and support personnel.

(6) The council shall by rule establish the time and manner for destroying court records, including computer records, and shall establish retention periods for these records.

(7) (a) Consistent with the requirements of judicial office and security policies, the council shall establish procedures to govern the assignment of state vehicles to public officers of the judicial branch.

(b) The vehicles shall be marked in a manner consistent with Section 41-1a-407 and may be assigned for unlimited use, within the state only.

(8) (a) The council shall advise judicial officers and employees concerning ethical issues and shall establish procedures for issuing informal and formal advisory opinions on these issues.

(b) Compliance with an informal opinion is evidence of good faith compliance with the Code of Judicial Conduct.

(c) A formal opinion constitutes a binding interpretation of the Code of Judicial Conduct.

(9) (a) The council shall establish written procedures authorizing the presiding officer of the council to appoint judges of courts of record by special or general assignment to serve temporarily in another level of court in a specific court or generally within that level. The appointment shall be for a specific period and shall be reported to the council.

(b) These procedures shall be developed in accordance with Subsection 78A-2-107(10) regarding temporary appointment of judges.

(10) The Judicial Council may by rule designate municipalities in addition to those designated by statute as a location of a trial court of record. There shall be at least one court clerk's office open during regular court hours in each county. Any trial

court of record may hold court in any municipality designated as a location of a court of record.

(11) The Judicial Council shall by rule determine whether the administration of a court shall be the obligation of the administrative office of the courts or whether the administrative office of the courts should contract with local government for court support services.

(12) The Judicial Council may by rule direct that a district court location be administered from another court location within the county.

(13) (a) The Judicial Council shall:

(i) establish the Office of Guardian Ad Litem, in accordance with Title 78A, Chapter 6, Part 9, Guardian Ad Litem; and

(ii) establish and supervise a Guardian Ad Litem Oversight Committee.

(b) The Guardian Ad Litem Oversight Committee described in Subsection (13)(a)(ii) shall oversee the Office of Guardian Ad Litem, established under Subsection (13)(a)(i), and assure that the Office of Guardian Ad Litem complies with state and federal law, regulation, policy, and court rules.

(14) The Judicial Council shall establish and maintain, in cooperation with the Office of Recovery Services within the Department of Human Services, the part of the state case registry that contains records of each support order established or modified in the state on or after October 1, 1998, as is necessary to comply with the Social Security Act, 42 U.S.C. Sec. 654a.

Amended by Chapter 32, 2009 General Session

78A-2-105. Administrator of the courts -- Appointment -- Qualifications -- Salary.

The Supreme Court shall appoint a chief administrative officer of the council who shall have the title of the administrator of the courts and shall serve at the pleasure of the council and/or the Supreme Court. The administrator shall be selected on the basis of professional ability and experience in the field of public administration and shall possess an understanding of court procedures as well as of the nature and significance of other court services. He shall devote his full time and attention to the duties of his office, and shall receive a salary equal to that of a district court judge.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-106. Presiding officer -- Compensation -- Duties.

(1) The chief justice of the Supreme Court shall serve as the presiding officer of the Judicial Council. The presiding officer shall receive as additional compensation the sum of \$1,000 per annum or fraction thereof for the period served.

(2) The presiding officer of the Judicial Council shall supervise the courts to ensure uniform adherence to law and to the rules and forms adopted by the council and to promote the proper and efficient functioning of the courts. The presiding officer of the council may issue orders as necessary to assure compliance with uniform administrative practices.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-107. Court administrator -- Powers, duties, and responsibilities.

Under the general supervision of the presiding officer of the Judicial Council, and within the policies established by the council, the administrator shall:

- (1) organize and administer all of the nonjudicial activities of the courts;
- (2) assign, supervise, and direct the work of the nonjudicial officers of the courts;
- (3) implement the standards, policies, and rules established by the council;
- (4) formulate and administer a system of personnel administration, including in-service training programs;
- (5) prepare and administer the state judicial budget, fiscal, accounting, and procurement activities for the operation of the courts of record, and assist justices' courts in their budgetary, fiscal, and accounting procedures;
- (6) conduct studies of the business of the courts, including the preparation of recommendations and reports relating to them;
- (7) develop uniform procedures for the management of court business, including the management of court calendars;
- (8) maintain liaison with the governmental and other public and private groups having an interest in the administration of the courts;
- (9) establish uniform policy concerning vacations and sick leave for judges and nonjudicial officers of the courts;
- (10) establish uniform hours for court sessions throughout the state and may, with the consent of the presiding officer of the Judicial Council, call and appoint justices or judges of courts of record to serve temporarily as Court of Appeals, district court, or juvenile court judges and set reasonable compensation for their services;
- (11) when necessary for administrative reasons, change the county for trial of any case if no party to the litigation files timely objections to this change;
- (12) organize and administer a program of continuing education for judges and support staff, including training for justice court judges;
- (13) provide for an annual meeting for each level of the courts of record, and the annual judicial conference; and
- (14) perform other duties as assigned by the presiding officer of the council.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-108. Assistants for administrator of the courts -- Appointment of trial court executives.

(1) The administrator of the courts, with the approval of the presiding officer of the council, is responsible for the establishment of positions and salaries of assistants as necessary to enable him to perform the powers and duties vested in him by this chapter, including the positions of appellate court administrator, district court administrator, juvenile court administrator, and justices' court administrator, whose appointments shall be made by the administrator of the courts with the concurrence of the respective boards as established by the council.

(2) The district court administrator, with the concurrence of the presiding judge of a district or the district court judge in single judge districts, may appoint in each

district a trial court executive. The trial court executive may appoint, subject to budget limitations, necessary support personnel including clerks, research clerks, secretaries, and other persons required to carry out the work of the court. The trial court executive shall supervise the work of all nonjudicial court staff and serve as administrative officer of the district.

(3) Administrators and assistants appointed under this section shall be known collectively as the Administrative Office of the Courts.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-109. Courts to provide information and statistical data to administrator of the courts.

The judges, clerks of the courts, and all other officers, state and local, shall comply with all requests made by the administrator or his assistants for information and statistical data bearing on the state of the dockets of the courts and such other information as may reflect the business transacted by them and the expenditure of public money for the maintenance and operation of the judicial system.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-110. Data bases for judicial boards.

(1) As used in this section, "judicial board" means any judicial branch board, commission, council, committee, working group, task force, study group, advisory group, or other body with a defined limited membership that is created to operate for more than six months by the constitution, by statute, by judicial order, by any justice or judge, by the Judicial Council, or by the state court administrator, a district court administrator, trial court executive, or by any clerk or administrator in the judicial branch of state government.

(2) The Judicial Council shall designate a person from its staff to maintain a computerized data base containing information about all judicial boards.

(3) The person designated to maintain the data base shall ensure that the data base contains:

- (a) the name of the judicial board;
- (b) the statutory or constitutional authority for the creation of the judicial board;
- (c) the court or other judicial entity under whose jurisdiction the judicial board operates or with which the judicial board is affiliated, if any;
- (d) the name, address, gender, telephone number, and county of each person currently serving on the judicial board, along with a notation of all vacant or unfilled positions;
- (e) the title of the position held by the person who appointed each member of the judicial board;
- (f) the length of the term to which each member of the judicial board was appointed and the month and year that each judicial board member's term expires;
- (g) the organization, interest group, profession, local government entity, or geographic area that the member of the judicial board represents, if any;
- (h) whether or not the judicial board allocates state or federal funds and the

amount of those funds allocated during the last fiscal year;

- (i) whether the judicial board is a policy board or an advisory board;
- (j) whether or not the judicial board has or exercises rulemaking authority; and
- (k) any compensation and expense reimbursement that members of the

executive board are authorized to receive.

(4) The person designated to maintain the data base shall:

(a) make the information contained in the data base available to the public upon request; and

(b) cooperate with other entities of state government to publish the data or useful summaries of the data.

(5) (a) The person designated to maintain the data bases shall prepare, publish, and distribute an annual report by April 1 of each year that includes, as of March 1 of that year:

- (i) the total number of judicial boards;
- (ii) the name of each of those judicial boards and the court, council, administrator, executive, or clerk under whose jurisdiction the executive board operates or with which the judicial board is affiliated, if any;
- (iii) for each court, council, administrator, executive, or clerk, the total number of judicial boards under the jurisdiction of or affiliated with that court, council, administrator, executive, or clerk;
- (iv) the total number of members for each of those judicial boards;
- (v) whether each board is a policymaking board or an advisory board and the total number of policy boards and the total number of advisory boards; and
- (vi) the compensation, if any, paid to the members of each of those judicial boards.

(b) The person designated to maintain the data bases shall distribute copies of the report to:

- (i) the chief justice of the Utah Supreme Court;
- (ii) the state court administrator;
- (iii) the governor;
- (iv) the president of the Utah Senate;
- (v) the speaker of the Utah House;
- (vi) the Office of Legislative Research and General Counsel; and
- (vii) any other persons who request a copy of the annual report.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-111. Annual judicial conference.

(1) There is established an annual judicial conference for all courts of this state, to facilitate the exchange of ideas among all courts and judges, and to study and improve the administration of the courts.

(2) All elections provided in this act shall be conducted during the annual judicial conference.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-112. Grants to nonprofit legal assistance organization.

Subject to legislative appropriation, the state court administrator shall, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, solicit requests for proposals and award grants to nonprofit legal assistance providers to provide legal assistance throughout the state to:

- (1) low to moderate income victims of domestic violence; and
- (2) low to moderate income individuals in family law matters.

Amended by Chapter 347, 2012 General Session

78A-2-113. Judicial hiring freeze authorized.

(1) As used in this section, "General Fund budget deficit" means a situation where General Fund appropriations made by the Legislature for a fiscal year exceed the estimated revenues adopted by the Executive Appropriations Committee of the Legislature for the General Fund in that fiscal year.

(2) During a General Fund budget deficit, the governor, president of the Senate, speaker of the House, and chief justice of the Supreme Court, may, by unanimous vote, implement a judicial hiring freeze for judicial vacancies for:

- (a) a juvenile court district with three or more juvenile court judges;
- (b) a district court district with three or more district court judges;
- (c) all appellate court judges; or
- (d) any combination of Subsections (2)(a) through (c).

(3) In implementing a judicial hiring freeze, the governor, president of the Senate, speaker of the House, and chief justice of the Supreme Court shall:

- (a) establish the length of that hiring freeze; and
- (b) ensure that the hiring freeze lasts at least 90 days, but not longer than the last day of the annual general session of the Legislature.

Enacted by Chapter 175, 2010 General Session

78A-2-201. Powers of every court.

Every court has authority to:

- (1) preserve and enforce order in its immediate presence;
- (2) enforce order in the proceedings before it, or before a person authorized to conduct a judicial investigation under its authority;
- (3) provide for the orderly conduct of proceedings before it or its officers;
- (4) compel obedience to its judgments, orders, and process, and to the orders of a judge out of court, in a pending action or proceeding;
- (5) control in furtherance of justice the conduct of its ministerial officers, and of all other persons in any manner connected with a judicial proceeding before it in every matter;
- (6) compel the attendance of persons to testify in a pending action or proceeding, as provided by law;
- (7) administer oaths in a pending action or proceeding, and in all other cases where necessary in the exercise of its authority and duties;
- (8) amend and control its process and orders to conform to law and justice;

- (9) devise and make new process and forms of proceedings, consistent with law, necessary to carry into effect its authority and jurisdiction; and
- (10) enforce rules of the Supreme Court and Judicial Council.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-202. Courts of justice -- Authority.

- (1) All courts of justice have the authority necessary to exercise their jurisdiction.
- (2) If a procedure for an action is not established, a process may be adopted that conforms with the apparent intent of the statute or rule of procedure.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-203. Rules -- Right to make -- Limitation -- Security.

(1) Every court of record may make rules, not inconsistent with law, for its own government and the government of its officers; but such rules must neither impose any tax or charge upon any legal proceeding nor give any allowance to any officer for service.

(2) (a) The judicial council may provide, through the rules of judicial administration, for security in or about a courthouse or courtroom, or establish a secure area as prescribed in Section 76-8-311.1.

(b) (i) If the council establishes a secure area under Subsection (2)(a), it shall provide a secure firearms storage area on site so that persons with lawfully carried firearms may store them while they are in the secure area.

(ii) The entity operating the facility with the secure area shall be responsible for the firearms while they are stored in the storage area referred to in Subsection (2)(b)(i).

(iii) The entity may not charge a fee to individuals for storage of their firearms under Subsection (2)(b)(i).

(3) (a) Unless authorized by the rules of judicial administration, any person who knowingly or intentionally possesses a firearm, ammunition, or dangerous weapon within a secure area established by the judicial council under this section is guilty of a third degree felony.

(b) Any person is guilty of violating Section 76-10-306 who transports, possesses, distributes, or sells an explosive, chemical, or incendiary device, as defined by Section 76-10-306, within a secure area, established by the Judicial Council under this section.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-204. Judicial Council to approve court seals.

The Judicial Council shall approve a seal for all courts of justice.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-205. When seal is affixed.

The seal of the court need not be affixed to any document of the court, except to:

- (1) a writ;
- (2) a certificate of the probate of a will, or of appointment of an executor, administrator, or guardian; or
- (3) the authentication of:
 - (a) a copy of a record or document on file with the court; or
 - (b) the signature of an officer of the court.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-206. English language for proceedings.

Judicial proceedings shall be conducted in the English language.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-207. Domestic relations cases -- Party designation.

Parties in domestic relations cases, including divorce, annulment, property division, child custody, support, parent-time, adoption, and paternity, shall be designated as petitioner and respondent.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-208. Sittings of courts -- To be public -- Right to exclude in certain cases.

- (1) The sittings of every court of justice are public, except as provided in Subsections (2) and (3).
- (2) The court may, in its discretion, during the examination of a witness exclude any and all other witnesses in the proceedings.
- (3) In an action of divorce, criminal conversation, seduction, abortion, rape, or assault with intent to commit rape, the court may, in its discretion, exclude all persons who do not have a direct interest in the proceedings, except jurors, witnesses and officers of the court.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-209. Sheriff to supply court rooms when the county legislative body neglects.

If suitable rooms for holding the district court and for chambers of the judge are not provided in the place appointed for holding court in any county, together with attendants, furniture, lights, and stationery sufficient for the transaction of business, the court or the judge may direct the sheriff to provide rooms, attendants, furniture, fuel, lights, and stationery. All expenses incurred, certified by the judge to be correct, are a charge against the county and shall be paid out of the county's general fund.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-210. Change of place of trial because of calamity.

(1) The presiding judge may order court proceedings to be held at another location within the jurisdiction if the presiding judge determines it is necessary because of:

- (a) war;
- (b) insurrection;
- (c) pestilence;
- (d) public calamity or natural disaster; or
- (e) destruction of or danger to the building in which court is held.

(2) Any order to move court proceedings shall be reduced to writing and filed with the clerk of the court for publication.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-211. Court days.

Courts of justice are open and judicial business may be transacted on any day, except as provided in Section 78A-2-212.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-212. Days on which court closed -- Exceptions.

Judicial business on Sunday, on any day on which general election is held, or on any legal holiday, is limited to the following purposes:

- (1) to give, upon their request, instructions to a jury when deliberating on their verdict;
- (2) to receive a verdict or discharge a jury;
- (3) for the exercise of the powers of a magistrate in a criminal action, or in a proceeding of a criminal nature; and
- (4) judicial business not involving a trial or hearing unless the judge finds it necessary for the fair administration of justice.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-213. Proceedings unaffected by vacancy in office of judge.

No proceeding in any court of justice is affected by a vacancy in the office of all or any of the judges, or by the failure of a term of a judge.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-214. Collection of accounts receivable.

- (1) As used in this section:
 - (a) "Accounts receivable" means any amount due the state from an entity for which payment has not been received by the state agency that is servicing the debt.
 - (b) "Accounts receivable" includes unpaid fees, licenses, taxes, loans, overpayments, fines, forfeitures, surcharges, costs, contracts, interest, penalties, restitution to victims, third party claims, sale of goods, sale of services, claims, and damages.

(2) If the Department of Corrections does not have responsibility under Subsection 77-18-1(9) for collecting an account receivable and if the Office of State Debt Collection does not have responsibility under Subsection 63A-3-502(6), the district court shall collect the account receivable.

(3) (a) In the juvenile court, money collected by the court from past-due accounts receivable may be used to offset system, administrative, legal, and other costs of collection.

(b) The juvenile court shall allocate money collected above the cost of collection on a pro rata basis to the various revenue types that generated the accounts receivable.

(4) The interest charge established by the Office of State Debt Collection under Subsection 63A-3-502(4)(g)(iii) may not be assessed on an account receivable subject to the postjudgment interest rate established by Section 15-1-4.

Amended by Chapter 79, 2011 General Session

78A-2-215. Abbreviations and numerals.

Common abbreviations may be used, and numbers may be expressed by customary figures or numerals in court documents.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-216. Fees for writ of garnishment -- Single or continuing.

(1) Any creditor who serves or causes to be served a writ of garnishment upon the garnishee shall pay to the garnishee:

- (a) \$10 for a single garnishment; and
- (b) \$25 for a continuing garnishment.

(2) The creditor shall pay the fee directly to the garnishee.

(3) If a plaintiff attempts to garnish the property of a person other than the defendant by serving a garnishment on a garnishee, that person may recover from the plaintiff an amount not to exceed \$1,000 if the person demonstrates to the court that the plaintiff failed to exercise reasonable diligence in determining that the person and defendant were the same individual.

(4) The following factors may be taken into consideration by the court in determining whether the plaintiff exercised reasonable diligence in determining whether the person garnished and the defendant were the same individual:

- (a) similarities between the person and the actual judgment debtor, including:
 - (i) the spelling of each person's name;
 - (ii) addresses;
 - (iii) physical descriptions;
 - (iv) identifying information, including Social Security number or driver license number; and
 - (v) family status;
- (b) whether previous contact was made to determine whether the person was the judgment debtor;
- (c) how the determination of who the judgment debtor was, was made; and

(d) what information the plaintiff had access to or was provided with regarding the actual judgment debtor from all available sources.

(5) An employer who receives a written request for verification of employment, which includes a copy of the judgment and judgment information statement, shall provide verification within 10 days. The response shall indicate whether or not the defendant identified in the documentation is a current employee.

(6) A plaintiff is not liable for a violation of Subsection (3) regarding a wage garnishment if the plaintiff transmitted a written request for verification of employment, including a copy of the judgment and judgment information statement, to an employer and the employer did not respond.

Renumbered and Amended by Chapter 3, 2008 General Session
Amended by Chapter 149, 2008 General Session

78A-2-217. Electronic writing.

(1) Except as restricted by the Constitution of the United States or of this state, any writing required or permitted by this code to be filed with or prepared by a court may be filed or prepared in an electronic medium and by electronic transmission subject to the ability of the recipient to accept and process the electronic writing.

(2) Any writing required to be signed that is filed with or prepared by a court in an electronic medium or by electronic transmission shall be signed by electronic signature in accordance with Title 46, Chapter 4, Uniform Electronic Transactions Act.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-218. Powers of every judicial officer -- Contempt.

Every judicial officer has power:

(1) to preserve and enforce order in his immediate presence, and in proceedings before him, when he is engaged in the performance of official duty;

(2) to compel obedience to his lawful orders as provided by law;

(3) to compel the attendance of persons to testify in a proceeding before him in the cases and manner provided by law;

(4) to administer oaths to persons in a proceeding pending before him, and in all other cases where it may be necessary in the exercise of his powers and duties; and

(5) punish for contempt as provided by law to enforce compliance with Subsections (1) through (4).

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-219. Powers of judge contradistinguished from court.

A judge may exercise out of court all the powers expressly conferred upon a judge as contradistinguished from the court.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-220. Authority of magistrate.

- (1) Except as otherwise provided by law, a magistrate as defined in Section 77-1-3 shall have the authority to:
- (a) commit a person to incarceration prior to trial;
 - (b) set or deny bail under Section 77-20-1 and release upon the payment of bail and satisfaction of any other conditions of release;
 - (c) issue to any place in the state summonses and warrants of search and arrest and authorize administrative traffic checkpoints under Section 77-23-104;
 - (d) conduct an initial appearance;
 - (e) conduct arraignments;
 - (f) conduct a preliminary examination to determine probable cause;
 - (g) appoint attorneys and order recoupment of attorney fees;
 - (h) order the preparation of presentence investigations and reports;
 - (i) issue temporary orders as provided by rule of the Judicial Council; and
 - (j) perform any other act or function authorized by statute.
- (2) A judge of the justice court may exercise the authority of a magistrate specified in Subsection (1) with the following limitations:
- (a) a judge of the justice court may conduct an initial appearance, preliminary examination, or arraignment as provided by rule of the Judicial Council; and
 - (b) a judge of the justice court may not set bail in a capital felony nor deny bail in any case.

Amended by Chapter 245, 2013 General Session

78A-2-221. Justices and judges -- Limitations during terms.

A justice or judge of any court of record may not, during his term of office:

- (1) practice law or have a partner engaged in the practice of law;
- (2) hold office in or make any contribution to any political party or organization engaged in political activity; or
- (3) use, in his efforts to obtain or retain judicial office, any political party designation, reference, or description.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-222. Disqualification for interest or relation to parties.

(1) Except by consent of all parties, a justice, judge, or justice court judge may not sit or act in any action or proceeding:

- (a) to which he is a party, or in which he is interested;
- (b) when he is related to either party by consanguinity or affinity within the third degree, computed according to the rules of the common law; or
- (c) when he has been attorney or counsel for either party in the action or proceeding.

(2) The provisions of this section do not apply to the arrangement of the calendar or the regulation of the order of business, nor to the power of transferring the action or proceeding to some other court.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-223. Decisions to be rendered within two months -- Procedures for decisions not rendered.

(1) A trial court judge shall decide all matters submitted for final determination within two months of submission, unless circumstances causing the delay are beyond the judge's personal control.

(2) The Judicial Council shall establish reporting procedures for all matters not decided within two months of final submission.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-224. Bases for certain decisions limited.

(1) Except as provided in Subsection (2), no court may rule on the custody, placement, including foster placement, or other disposition alternative for a minor, or the termination of parental rights, based on the fact that a parent or guardian of the minor lawfully does one or more of the following:

- (a) legally possesses or uses a firearm or other weapon;
- (b) espouses particular religious beliefs; or
- (c) schools the minor or other minors outside the public education system or is otherwise sympathetic to schooling a minor outside the public education system.

(2) Subsection (1) does not prohibit a ruling based on the compatibility of a minor with a particular custody, placement, or other disposition alternative as determined by the presence of any of the factors in Subsections (1)(a) through (1)(c).

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-225. Judge of court of record -- Service in other division or court.

A judge of a court of record may serve temporarily as a judge in another geographic division or in another court of record, in accordance with the Utah Constitution and the rules of the Judicial Council.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-226. Repeated application for orders forbidden -- Disobedience -- Contempt.

(1) If an application for an order, made to a judge of a court in which the action or proceeding is pending, is refused in whole or in part or is granted conditionally, a subsequent application for the same order may not be made to any other judge, except of a higher court.

(2) This section does not apply to motions refused for any informality in the papers or proceedings necessary to obtain the order, or to motions refused with liberty to renew them.

(3) A notice of appeal for a trial de novo is not a subsequent application for the same order.

(4) A violation of Subsection (1) may be punished by contempt and any subsequent order may be revoked by the issuing judge or vacated by a judge of the court in which the action or proceeding is pending.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-229. Documents provided to pro se litigants.

(1) Documents classified as private, protected, or sealed by court rule and are provided to a pro se litigant in the course of an action or in accordance with Subsection 63G-2-202(7) may not be distributed, released, or displayed to any other person except the court, the other party and their counsel, or any other person who may be authorized by the court to inspect the documents.

(2) Pro se litigants shall be advised by the court that private, protected, or sealed documents received by the party that the party would not have received but for the litigation and pro se representation are confidential and may not be distributed outside the parties or the court without prior authorization by the court. A court's failure to give this notice may not be used as a defense to prosecution for a violation of the disclosure rule.

(3) Violation of this section is:

(a) punishable by contempt if distribution or release occurs before a final determination is made by the court and the court still has jurisdiction over the parties; or

(b) a class B misdemeanor if the litigation has been concluded and the court no longer has jurisdiction over the parties.

Enacted by Chapter 247, 2010 General Session

78A-2-230. References to court pleadings and other papers.

Any reference in this code to a petition, complaint, or other court record shall be considered to include any cover sheet or accompanying document required by statute or court rule to be filed with the petition, complaint, or other record.

Enacted by Chapter 34, 2010 General Session

78A-2-301. Civil fees of the courts of record -- Courts complex design.

(1) (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a court of record not governed by another subsection is \$360.

(b) The fee for filing a complaint or petition is:

(i) \$75 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is \$2,000 or less;

(ii) \$185 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than \$2,000 and less than \$10,000;

(iii) \$360 if the claim for damages or amount in interpleader is \$10,000 or more;

(iv) \$310 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4, Separate Maintenance;

(v) \$35 for a motion for temporary separation order filed under Section 30-3-4.5; and

(vi) \$125 if the petition is for removal from the Sex Offender and Kidnap Offender Registry under Section 77-41-112.

(c) The fee for filing a small claims affidavit is:

(i) \$60 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is \$2,000 or less;

(ii) \$100 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than \$2,000, but less than \$7,500; and

(iii) \$185 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is \$7,500 or more.

(d) The fee for filing a counter claim, cross claim, complaint in intervention, third party complaint, or other claim for relief against an existing or joined party other than the original complaint or petition is:

(i) \$55 if the claim for relief exclusive of court costs, interest, and attorney fees is \$2,000 or less;

(ii) \$150 if the claim for relief exclusive of court costs, interest, and attorney fees is greater than \$2,000 and less than \$10,000;

(iii) \$155 if the original petition is filed under Subsection (1)(a), the claim for relief is \$10,000 or more, or the party seeks relief other than monetary damages; and

(iv) \$115 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4, Separate Maintenance.

(e) The fee for filing a small claims counter affidavit is:

(i) \$50 if the claim for relief exclusive of court costs, interest, and attorney fees is \$2,000 or less;

(ii) \$70 if the claim for relief exclusive of court costs, interest, and attorney fees is greater than \$2,000, but less than \$7,500; and

(iii) \$120 if the claim for relief exclusive of court costs, interest, and attorney fees is \$7,500 or more.

(f) The fee for depositing funds under Section 57-1-29 when not associated with an action already before the court is determined under Subsection (1)(b) based on the amount deposited.

(g) The fee for filing a petition is:

(i) \$225 for trial de novo of an adjudication of the justice court or of the small claims department; and

(ii) \$65 for an appeal of a municipal administrative determination in accordance with Section 10-3-703.7.

(h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or petition for writ of certiorari is \$225.

(i) The fee for filing a petition for expungement is \$135.

(j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges' Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges' Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement Act.

(ii) Four dollars of the fees established by Subsections (1)(a) through (i) shall be allocated by the state treasurer to be deposited in the restricted account, Children's Legal Defense Account, as provided in Section 51-9-408.

(iii) Three dollars of the fees established under Subsections (1)(a) through (e), (1)(g), and (1)(s) shall be allocated to and deposited with the Dispute Resolution Account as provided in Section 78B-6-209.

(iv) Fifteen dollars of the fees established by Subsections (1)(a), (1)(b)(iii) and (iv), (1)(d)(iii) and (iv), (1)(g)(ii), (1)(h), and (1)(i) shall be allocated by the state treasurer to be deposited in the restricted account, Court Security Account, as provided in Section 78A-2-602.

(v) Five dollars of the fees established by Subsections (1)(b)(i) and (ii), (1)(d)(ii) and (1)(g)(i) shall be allocated by the state treasurer to be deposited in the restricted account, Court Security Account, as provided in Section 78A-2-602.

(k) The fee for filing a judgment, order, or decree of a court of another state or of the United States is \$35.

(l) The fee for filing a renewal of judgment in accordance with Section 78B-6-1801 is 50% of the fee for filing an original action seeking the same relief.

(m) The fee for filing probate or child custody documents from another state is \$35.

(n) (i) The fee for filing an abstract or transcript of judgment, order, or decree of the Utah State Tax Commission is \$30.

(ii) The fee for filing an abstract or transcript of judgment of a court of law of this state or a judgment, order, or decree of an administrative agency, commission, board, council, or hearing officer of this state or of its political subdivisions other than the Utah State Tax Commission, is \$50.

(o) The fee for filing a judgment by confession without action under Section 78B-5-205 is \$35.

(p) The fee for filing an award of arbitration for confirmation, modification, or vacation under Title 78B, Chapter 11, Utah Uniform Arbitration Act, that is not part of an action before the court is \$35.

(q) The fee for filing a petition or counter-petition to modify a domestic relations order other than a protective order or stalking injunction is \$100.

(r) The fee for filing any accounting required by law is:

(i) \$15 for an estate valued at \$50,000 or less;

(ii) \$30 for an estate valued at \$75,000 or less but more than \$50,000;

(iii) \$50 for an estate valued at \$112,000 or less but more than \$75,000;

(iv) \$90 for an estate valued at \$168,000 or less but more than \$112,000; and

(v) \$175 for an estate valued at more than \$168,000.

(s) The fee for filing a demand for a civil jury is \$250.

(t) The fee for filing a notice of deposition in this state concerning an action pending in another state under Utah Rule of Civil Procedure 26 is \$35.

(u) The fee for filing documents that require judicial approval but are not part of an action before the court is \$35.

(v) The fee for a petition to open a sealed record is \$35.

(w) The fee for a writ of replevin, attachment, execution, or garnishment is \$50 in addition to any fee for a complaint or petition.

(x) (i) The fee for a petition for authorization for a minor to marry required by Section 30-1-9 is \$5.

(ii) The fee for a petition for emancipation of a minor provided in Title 78A, Chapter 6, Part 8, Emancipation, is \$50.

(y) The fee for a certificate issued under Section 26-2-25 is \$8.

(z) The fee for a certified copy of a document is \$4 per document plus 50 cents

per page.

(aa) The fee for an exemplified copy of a document is \$6 per document plus 50 cents per page.

(bb) The Judicial Council shall by rule establish a schedule of fees for copies of documents and forms and for the search and retrieval of records under Title 63G, Chapter 2, Government Records Access and Management Act. Fees under this Subsection (1)(bb) shall be credited to the court as a reimbursement of expenditures.

(cc) There is no fee for services or the filing of documents not listed in this section or otherwise provided by law.

(dd) Except as provided in this section, all fees collected under this section are paid to the General Fund. Except as provided in this section, all fees shall be paid at the time the clerk accepts the pleading for filing or performs the requested service.

(ee) The filing fees under this section may not be charged to the state, its agencies, or political subdivisions filing or defending any action. In judgments awarded in favor of the state, its agencies, or political subdivisions, except the Office of Recovery Services, the court shall order the filing fees and collection costs to be paid by the judgment debtor. The sums collected under this Subsection (1)(ee) shall be applied to the fees after credit to the judgment, order, fine, tax, lien, or other penalty and costs permitted by law.

(2) (a) (i) From March 17, 1994 until June 30, 1998, the administrator of the courts shall transfer all revenues representing the difference between the fees in effect after May 2, 1994, and the fees in effect before February 1, 1994, as dedicated credits to the Division of Facilities Construction and Management Capital Projects Fund.

(ii) (A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities Construction and Management shall use up to \$3,750,000 of the revenue deposited in the Capital Projects Fund under this Subsection (2)(a) to design and take other actions necessary to initiate the development of a courts complex in Salt Lake City.

(B) If the Legislature approves funding for construction of a courts complex in Salt Lake City in the 1995 Annual General Session, the Division of Facilities Construction and Management shall use the revenue deposited in the Capital Projects Fund under this Subsection (2)(a)(ii) to construct a courts complex in Salt Lake City.

(C) After the courts complex is completed and all bills connected with its construction have been paid, the Division of Facilities Construction and Management shall use any money remaining in the Capital Projects Fund under this Subsection (2)(a)(ii) to fund the Vernal District Court building.

(iii) The Division of Facilities Construction and Management may enter into agreements and make expenditures related to this project before the receipt of revenues provided for under this Subsection (2)(a)(iii).

(iv) The Division of Facilities Construction and Management shall:

(A) make those expenditures from unexpended and unencumbered building funds already appropriated to the Capital Projects Fund; and

(B) reimburse the Capital Projects Fund upon receipt of the revenues provided for under this Subsection (2).

(b) After June 30, 1998, the administrator of the courts shall ensure that all revenues representing the difference between the fees in effect after May 2, 1994, and the fees in effect before February 1, 1994, are transferred to the Division of Finance for

deposit in the restricted account.

(c) The Division of Finance shall deposit all revenues received from the court administrator into the restricted account created by this section.

(d) (i) From May 1, 1995, until June 30, 1998, the administrator of the courts shall transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court of record to the Division of Facilities Construction and Management Capital Projects Fund. The division of money pursuant to Section 78A-5-110 shall be calculated on the balance of the fine or bail forfeiture paid.

(ii) After June 30, 1998, the administrator of the courts or a municipality shall transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court of record to the Division of Finance for deposit in the restricted account created by this section. The division of money pursuant to Section 78A-5-110 shall be calculated on the balance of the fine or bail forfeiture paid.

(3) (a) There is created within the General Fund a restricted account known as the State Courts Complex Account.

(b) The Legislature may appropriate money from the restricted account to the administrator of the courts for the following purposes only:

(i) to repay costs associated with the construction of the court complex that were funded from sources other than revenues provided for under this Subsection (3)(b)(i); and

(ii) to cover operations and maintenance costs on the court complex.

Amended by Chapter 189, 2014 General Session

Amended by Chapter 263, 2014 General Session

78A-2-301.5. Civil fees for justice courts.

(1) The fee for filing a small claims affidavit is:

(a) \$60 if the claim for damages or amount in interpleader exclusive of justice court costs, interest, and attorney fees is \$2,000 or less;

(b) \$100 if the claim for damages or amount in interpleader exclusive of justice court costs, interest, and attorney fees is greater than \$2,000, but less than \$7,500; and

(c) \$185 if the claim for damages or amount in interpleader exclusive of justice court costs, interest, and attorney fees is \$7,500 or more.

(2) The fee for filing a small claims counter affidavit is:

(a) \$50 if the claim for relief exclusive of justice court costs, interest, and attorney fees is \$2,000 or less;

(b) \$70 if the claim for relief exclusive of justice court costs, interest, and attorney fees is greater than \$2,000, but less than \$7,500; and

(c) \$120 if the claim for relief exclusive of justice court costs, interest, and attorney fees is \$7,500 or more.

(3) The fee for filing a petition for expungement is \$135.

(4) The fee for a petition to open a sealed record is \$35.

(5) The fee for a writ of replevin, attachment, execution, or garnishment is \$50 in addition to any fee for a complaint or petition.

(6) The fee for filing a notice of appeal to a court of record is \$10. This fee covers all services of the justice court on appeal but does not satisfy the trial de novo

filing fee in the court of record.

(7) The fee for a certified copy of a document is \$4 per document plus 50 cents per page.

(8) The fee for an exemplified copy of a document is \$6 per document plus 50 cents per page.

(9) The fee schedule adopted by the Judicial Council for copies of documents and forms and for the search and retrieval of records under Title 63G, Chapter 2, Government Records Access and Management Act, shall apply.

(10) There is no fee for services or the filing of documents not listed in this section or otherwise provided by law.

(11) The filing fees under this section may not be charged to the state, its agencies, or political subdivisions filing or defending any action. In judgments awarded in favor of the state, its agencies, or political subdivisions, except the Office of Recovery Services, the court shall order the filing fees and collection costs to be paid by the judgment debtor. The sums collected under this Subsection (11) shall be applied to the fees after credit to the judgment, order, fine, tax, lien, or other penalty and costs permitted by law.

Amended by Chapter 245, 2013 General Session

78A-2-302. Impecunious litigants -- Affidavit.

(1) For purposes of Sections 78A-2-302 through 78A-2-309:

(a) "Convicted" means a conviction by entry of a plea of guilty or nolo contendere, guilty with a mental illness, no contest, and conviction of any crime or offense.

(b) "Prisoner" means a person who has been convicted of a crime and is incarcerated for that crime or is being held in custody for trial or sentencing.

(2) As provided in this chapter, any person may institute, prosecute, defend, and appeal any cause in any court in this state without prepayment of fees and costs or security, by taking and subscribing, before any officer authorized to administer an oath, an affidavit of impecuniosity demonstrating financial inability to pay fees and costs or give security.

(3) The affidavit shall contain complete information on the party's:

- (a) identity and residence;
- (b) amount of income, including government financial support, alimony, child support;
- (c) assets owned, including real and personal property;
- (d) business interests;
- (e) accounts receivable;
- (f) securities, checking and savings account balances;
- (g) debts; and
- (h) monthly expenses.

(4) If the party is a prisoner, he shall also disclose the amount of money held in his prisoner trust account at the time the affidavit is executed as provided in Section 78A-2-305.

(5) In addition to the financial disclosures, the affidavit shall state the following:

I, A B, do solemnly swear or affirm that due to my poverty I am unable to bear the expenses of the action or legal proceedings which I am about to commence or the appeal which I am about to take, and that I believe I am entitled to the relief sought by the action, legal proceedings, or appeal.

Amended by Chapter 366, 2011 General Session

78A-2-303. False affidavit -- Penalty.

(1) A person may assert by affidavit that an affidavit of impecuniosity, action, or appeal is:

- (a) false;
- (b) frivolous or without merit; or
- (c) malicious.

(2) Upon receipt of an affidavit in accordance with Subsection (1), the court may notify the affiant of the challenge and set a date, not less than five days from receipt of the notice, requiring the affiant to appear and show cause why the affiant should not be required to:

- (a) post a bond for the costs of the action or appeal; or
- (b) pay the legal fees for the action or appeal.
- (3) The court may dismiss the action or appeal if:
 - (a) the affiant does not appear;
 - (b) the affiant appears and the court determines the affidavit is false, frivolous, without merit, or malicious; or
 - (c) the court orders the affiant to post a bond or pay the legal fees and the affiant fails to do so.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-304. Effect of filing affidavit -- Nonprisoner.

(1) Upon the filing of the oath or affirmation with any Utah court by a nonprisoner, the court shall review the affidavit and make an independent determination based on the information provided whether court costs and fees should be waived entirely or in part. Notwithstanding the party's statement of inability to pay court costs, the court shall require a partial or full filing fee where the financial information provided demonstrates an ability to pay a fee.

(2) In instances where fees or costs are completely waived, the court shall immediately file any complaint or papers on appeal and do what is necessary or proper as promptly as if the litigant had fully paid all the regular fees. The constable or sheriff shall immediately serve any summonses, writs, process and subpoenas, and papers necessary or proper in the prosecution or defense of the cause, for the impecunious person as if all the necessary fees and costs had been fully paid.

(3) However, in cases where an impecunious affidavit is filed, the judge shall question the person who filed the affidavit at the time of hearing the cause as to his ability to pay. If the judge opines that the person is reasonably able to pay the costs, the judge shall direct the judgment or decree not be entered in favor of that person until the costs are paid. The order may be cancelled later upon petition if the facts warrant

cancellation.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-305. Effect of filing affidavit -- Procedure for review and collection.

(1) (a) Upon receipt of the oath or affirmation filed with any Utah court by a prisoner, the court shall immediately request the institution or facility where the prisoner is incarcerated to provide an account statement detailing all financial activities in the prisoner's trust account for the previous six months or since the time of incarceration, whichever is shorter.

(b) The incarcerating facility shall:

(i) prepare and produce to the court the prisoner's six-month trust account statement, current trust account balance, and aggregate disposable income; and

(ii) calculate aggregate disposable income by totaling all deposits made in the prisoner's trust account during the six-month period and subtracting all funds automatically deducted or otherwise garnished from the account during the same period.

(2) The court shall:

(a) review both the affidavit of impecuniosity and the financial account statement; and

(b) based upon the review, independently determine whether or not the prisoner is financially capable of paying all the regular fees and costs associated with filing the action.

(3) When the court concludes that the prisoner is unable to pay full fees and costs, the court shall assess an initial partial filing fee equal to 50% of the prisoner's current trust account balance or 10% of the prisoner's six-month aggregate disposable income, whichever is greater.

(4) (a) After payment of the initial partial filing fee, the court shall require the prisoner to make monthly payments of 20% of the preceding month's aggregate disposable income until the regular filing fee associated with the civil action is paid in full.

(b) The agency having custody of the prisoner shall:

(i) garnish the prisoner's account each month; and

(ii) once the collected fees exceed \$10, forward payments to the clerk of the court until the filing fees are paid.

(c) Nothing in this section may be construed to prevent the agency having custody of the prisoner from withdrawing funds from the prisoner's account to pay court-ordered restitution.

(5) Collection of the filing fees continues despite dismissal of the action.

(6) The filing fee collected may not exceed the amount of fees permitted by statute for the commencement of a civil action or an appeal of a civil action.

(7) If the prisoner is filing an initial divorce action or an action to obtain custody of the prisoner's children, the following procedures shall apply for review and collection of fees and costs:

(a) Upon filing an oath or affirmation with any Utah court by a prisoner, the court shall review the affidavit and make an independent determination based on the

information provided whether court costs and fees should be paid in full or be waived in whole or in part. The court shall require a full or partial filing fee when the prisoner's financial information demonstrates an ability to pay the applicable court fees or costs.

(b) (i) If a prisoner's court fees or costs are completely waived, and if the prisoner files an appeal, the court shall immediately file any complaint or papers on appeal and complete all necessary action as promptly as if the litigant had paid all the fees and costs in full.

(ii) If a prisoner is impecunious, the constable and sheriff shall immediately serve any summonses, writs, process and subpoenas, and papers necessary in the prosecution or defense of the cause as if all the necessary fees and costs had been paid in full.

(c) (i) If a prisoner files an affidavit of impecuniosity, the judge shall question the prisoner at the time of the hearing on the merits of the case as to the prisoner's ability to pay.

(ii) If the judge determines that the prisoner is reasonably able to pay court fees and costs, the final order or decree shall be entered, however the prisoner may not seek enforcement or modification of the decree or order until the prisoner has paid the fees or costs in full.

(iii) A judge may waive the restrictions placed on the prisoner in Subsection (7)(c)(ii) upon a showing of good cause.

Amended by Chapter 226, 2010 General Session

78A-2-306. Notice of filing fee -- Consequence of nonpayment.

(1) When an affidavit of impecuniosity has been filed and the court assesses an initial filing fee, the court shall immediately notify the litigant in writing of:

(a) the initial filing fee required as a prerequisite to proceeding with the action;

(b) the procedure available to challenge the initial filing fee assessment as provided in Section 78A-2-307; and

(c) the inmate's ongoing obligation to make monthly payments until the entire filing fee is paid.

(2) The court may not authorize service of process or otherwise proceed with the action, except as provided in Section 78A-2-307, until the initial filing fee has been completely paid to the clerk of the court.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-307. Filing fee challenge -- Court powers.

(1) Within 10 days of receiving court notice requiring an initial filing fee under Section 78A-2-306, the litigant may contest the fee assessment by filing a memorandum and supporting documentation with the court demonstrating inability to pay the fee.

(2) The court shall review the memorandum and supporting documents challenging the fee assessment for facial validity.

(3) The court may reduce the initial filing fee, authorize service of process, or otherwise proceed with the action without prepayment of costs and fees if the

memorandum shows the litigant:

- (a) has lost his source of income;
- (b) has unaccounted nondiscretionary expenses limiting his ability to pay;
- (c) will suffer immediate irreparable harm if the action is unnecessarily delayed;

or

(d) will otherwise lose the cause of action by unnecessary delays associated with securing funds necessary to satisfy the assessed filing fee.

(4) Nothing in this section shall be construed to relieve the litigant from the ongoing obligation of monthly payments until the filing fee is paid in full.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-308. Failure to serve papers -- Penalty.

Any justice court judge, clerk, or officer refusing to file or serve the papers is guilty of a class B misdemeanor.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-309. Liability for fees if successful in litigation.

Nothing in this part shall prevent a justice court judge, clerk, constable, or sheriff from collecting his or her regular fees for all services rendered for the impecunious person, in the event the person is successful in litigation. All fees and costs shall be regularly taxed and included in any judgment recovered by the person. The fees and costs shall be paid to a justice court judge, clerk, constable, or sheriff. If the person fails in the action or appeal, then the costs of the action or appeal shall be adjudged against the person.

Amended by Chapter 146, 2009 General Session

78A-2-401. Title.

This part is known as the "Court Reporter Act."

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-402. Definitions.

As used in this part:

(1) "Certified court reporter" has the same meaning as in Title 58, Chapter 74, Certified Court Reporters Licensing Act.

(2) "Folio" means 100 words. A number expressed as a numeral counts as one word; however, any portion of the last folio is not counted.

(3) "Official court transcriber" means a person certified in accordance with rules of the Judicial Council as competent to transcribe into written form an audio or video recording of court proceedings.

Amended by Chapter 34, 2010 General Session

78A-2-403. Appointment of reporters -- Eligibility -- Oath -- Bond -- Action on bond.

(1) A person may not be appointed to the position of court reporter nor act in the capacity of a court reporter in any court of record of this state, or before any referee, master, board, or commission of this state without a currently valid license from the Division of Occupational and Professional Licensing as provided in Title 58, Chapter 74, Certified Court Reporters Licensing Act.

(2) Before any person may act as a court reporter, the person shall:

(a) take, subscribe, and file the constitutional oath; and

(b) give a bond with sufficient surety, conditioned upon the faithful performance of all duties, in the sum of \$2,500, or larger sum if ordered by the judge.

(3) The bond shall run to the state of Utah, but an action on it may be maintained by any person whose rights are affected by the failure of the reporter to perform the reporter's official duties.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-404. Contract restrictions.

(1) Any contract for court reporting services, not related to a particular case or reporting incident, is prohibited between a court reporter or any other person with whom a court reporter has a principal and agency relationship and any attorney, party to an action, or party having a financial interest in an action. Negotiating or bidding reasonable fees, equal to all the parties, on a case-by-case basis may not be prohibited.

(2) A certified court reporter is an officer of the court whose impartiality shall remain beyond question.

(3) This section does not apply to the courts or the administrative tribunals of this state.

(4) Violation of this section shall be considered unprofessional conduct as provided in Sections 58-74-102 and 58-74-502, and shall be grounds for revocation of licensure only.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-405. Record of court proceedings.

The Judicial Council shall by rule provide for the means of maintaining the record of proceedings in the courts of record by official court reporters or by electronic recording devices.

Amended by Chapter 34, 2010 General Session

78A-2-408. Transcripts and copies -- Fees.

(1) The Judicial Council shall by rule provide for a standard page format for transcripts of court hearings.

(2) (a) The fee for a transcript of a court session, or any part of a court session, shall be \$4.50 per page, which includes the initial preparation of the transcript and one

certified copy. The preparer shall deposit the original text file and printed transcript with the clerk of the court and provide the person requesting the transcript with the certified copy. The cost of additional copies shall be as provided in Subsection 78A-2-301(1). The transcript for an appeal shall be prepared within the time period permitted by the rules of Appellate Procedure. The fee for a transcript prepared within three business days of the request shall be 1-1/2 times the base rate. The fee for a transcript prepared within one business day of the request shall be double the base rate.

(b) When a transcript is ordered by the court, the fees shall be paid by the parties to the action in equal proportion or as ordered by the court. The fee for a transcript in a criminal case in which the defendant is found to be impecunious shall be paid pursuant to Section 77-32-305.

(3) The fee for the preparation of a transcript of a court hearing by an official court transcriber and the fee for the preparation of the transcript by a certified court reporter of a hearing before any court, referee, master, board, or commission of this state shall be as provided in Subsection (2)(a), and shall be payable to the person preparing the transcript. Payment for a transcript under this section is the responsibility of the party requesting the transcript.

Amended by Chapter 48, 2014 General Session

78A-2-409. Certified transcripts prima facie correct.

A transcript of a certified court reporter's notes, written in longhand or typewritten, certified by the court reporter as being a correct transcript of evidence and proceedings, is prima facie a correct statement of the evidence and proceedings.

Amended by Chapter 34, 2010 General Session

78A-2-410. Transcripts taxed as costs.

A transcript may not be taxed as costs, unless the preparation of the transcript is ordered either by a party or by the court.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-411. Crimes.

Any violation of the provisions of this chapter, except Section 78A-2-404, is a misdemeanor.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-2-501. Online court assistance program -- Purpose of program -- User's fee.

(1) There is established an online court assistance program administered by the Administrative Office of the Courts to provide the public with information about civil procedures and to assist the public in preparing and filing civil pleadings and other papers in:

(a) uncontested divorces;

- (b) enforcement of orders in the divorce decree;
- (c) landlord and tenant actions;
- (d) guardianship actions; and
- (e) other types of proceedings approved by the Online Court Assistance

Program Policy Board.

(2) The purpose of the online court assistance program shall be to:

- (a) minimize the costs of civil litigation;
- (b) improve access to the courts; and
- (c) provide for informed use of the courts and the law by pro se litigants.

(3) (a) An additional \$20 shall be added to the filing fee established by Sections 78A-2-301 and 78A-2-301.5 if a person files a complaint, petition, answer, or response prepared through the program. There shall be no fee for using the program or for papers filed subsequent to the initial pleading.

(b) There is created within the General Fund a restricted account known as the Online Court Assistance Account. The fees collected under this Subsection (3) shall be deposited in the restricted account and appropriated by the Legislature to the Administrative Office of the Courts to develop, operate, and maintain the program and to support the use of the program through education of the public.

(4) The Administrative Office of the Courts shall provide on the front page of the Online Court Assistance Program website a listing of all forms and proceedings available to all pro se litigants within the program.

Amended by Chapter 94, 2014 General Session

Amended by Chapter 263, 2014 General Session

78A-2-502. Creation of policy board -- Membership -- Terms -- Chair -- Quorum -- Expenses.

(1) There is created a 13 member policy board to be known as the "Online Court Assistance Program Policy Board" which shall:

- (a) identify the subject matter included in the Online Court Assistance Program;
- (b) develop information and forms in conformity with the rules of procedure and evidence; and

(c) advise the Administrative Office of the Courts regarding the administration of the program.

(2) The voting membership shall consist of:

(a) two members of the House of Representatives designated by the speaker, with one member from each party;

(b) two members of the Senate designated by the president, with one member from each party;

(c) two attorneys actively practicing in domestic relations designated by the Family Law Section of the Utah State Bar;

(d) one attorney actively practicing in civil litigation designated by the Civil Litigation Section of the Utah State Bar;

(e) one court commissioner designated by the chief justice of the Utah Supreme Court;

(f) one district court judge designated by the chief justice of the Utah Supreme

Court;

- (g) one attorney from Utah Legal Services designated by its director;
- (h) one attorney from Legal Aid designated by its director; and
- (i) two persons from the Administrative Office of the Courts designated by the state court administrator.

(3) (a) The terms of the members shall be four years and staggered so that approximately half of the board expires every two years.

(b) The board shall meet as needed.

(4) The board shall select one of its members to serve as chair.

(5) A majority of the members of the board constitutes a quorum.

(6) (a) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Amended by Chapter 387, 2014 General Session

78A-2-601. Security surcharge -- Application and exemptions -- Deposit in restricted account.

(1) In addition to any fine, penalty, forfeiture, or other surcharge, a security surcharge of \$33 shall be assessed in all courts of record on all criminal convictions and juvenile delinquency judgments.

(2) The security surcharge may not be imposed upon:

(a) nonmoving traffic violations;

(b) community service; and

(c) penalties assessed by the juvenile court as part of the nonjudicial adjustment of a case under Section 78A-6-602.

(3) The security surcharge shall be collected after the surcharge under Section 51-9-401, but before any fine, and deposited with the state treasurer. A fine that would otherwise have been charged may not be reduced due to the imposition of the security surcharge.

(4) The state treasurer shall deposit the collected security surcharge in the restricted account, Court Security Account, as provided in Section 78A-2-602.

Amended by Chapter 200, 2009 General Session

78A-2-602. Court Security Account established -- Funding -- Uses.

(1) There is created a restricted account in the General Fund known as the Court Security Account.

(2) The state treasurer shall deposit in the Court Security Account:

- (a) collected money from the surcharge established in Section 78A-2-601;
 - (b) money from the portion of filing fees established in Subsections 78A-2-301(1)(j)(iv) and (v); and
 - (c) amounts designated by Subsection 78A-7-122(4)(b)(ii).
- (3) The Administrative Office of the Courts shall use the allocation to contract for court security at all district and juvenile courts throughout the state.

Amended by Chapter 200, 2009 General Session

78A-2-701. Title.

This part is known as the "District Court Guardian ad Litem Act."

Enacted by Chapter 267, 2014 General Session

78A-2-702. Definitions.

As used in this part:

- (1) "Attorney guardian ad litem" means an attorney employed by the office.
- (2) "Director" means the director of the office.
- (3) "Guardian ad litem" means either an attorney guardian ad litem or a private attorney guardian ad litem.
- (4) "Office" means the Office of Guardian ad Litem, created in Section 78A-6-901.
- (5) "Private attorney guardian ad litem" means an attorney designated by the office pursuant to Section 78A-2-705 who is not an employee of the office.

Enacted by Chapter 267, 2014 General Session

78A-2-703. Appointment of attorney guardian ad litem in district court matters.

- (1) A district court may appoint an attorney guardian ad litem to represent the best interests of a minor in the following district court matters:
 - (a) protective order proceedings; and
 - (b) district court actions when:
 - (i) child abuse, child sexual abuse, or neglect is alleged in a formal complaint, petition, or counterclaim;
 - (ii) the child abuse, child sexual abuse, or neglect described in Subsection (1)(b)(i) has been reported to Child Protective Services;
 - (iii) the court makes a finding that the adult parties to the case are indigent, as defined in Section 77-32-202; and
 - (iv) the district court determines that there are no private attorney guardians ad litem who are reasonably available to be appointed in the district court action.
- (2) (a) A court may not appoint an attorney guardian ad litem in a criminal case.
- (b) Subsection (2)(a) does not prohibit the appointment of an attorney guardian ad litem in a case where a court is determining whether to adjudicate a minor for committing an act that would be a crime if committed by an adult.
- (c) Subsection (2)(a) does not prohibit an attorney guardian ad litem from

entering an appearance, filing motions, or taking other action in a criminal case on behalf of a minor, if:

(i) the attorney guardian ad litem is appointed to represent the minor in a case that is not a criminal case; and

(ii) the interests of the minor may be impacted by:

(A) an order that has been, or may be, issued in the criminal case; or

(B) other proceedings that have occurred, or may occur, in the criminal case.

(3) If a court appoints an attorney guardian ad litem in a divorce or child custody case, the court shall:

(a) specify in the order appointing the attorney guardian ad litem the specific issues in the proceeding that the attorney guardian ad litem is required to be involved in resolving, which may include issues relating to the custody of children and parent-time schedules;

(b) to the extent possible, bifurcate the issues specified in the order described in Subsection (3)(a) from the other issues in the case, in order to minimize the time constraints placed upon the attorney guardian ad litem in the case; and

(c) except as provided in Subsection (5), within one year after the day on which the attorney guardian ad litem is appointed in the case, issue a final order:

(i) resolving the issues in the order described in Subsection (3)(a); and

(ii) terminating the appointment of the attorney guardian ad litem in the case.

(4) A court shall issue an order terminating the appointment of an attorney guardian ad litem made under this section, if:

(a) the court determines that the allegations of abuse or neglect are unfounded;

(b) after receiving input from the attorney guardian ad litem, the court determines that the children are no longer at risk of abuse or neglect; or

(c) there has been no activity in the case for which the attorney guardian ad litem is appointed for a period of six consecutive months.

(5) A court may issue a written order extending the one-year period described in Subsection (3)(c) for a time certain, if the court makes a written finding that there is a compelling reason that the court cannot comply with the requirements described in Subsection (3)(c) within the one-year period.

(6) When appointing an attorney guardian ad litem for a minor under this section, a court may appoint the same attorney guardian ad litem who represents the minor in another proceeding, or who has represented the minor in a previous proceeding, if that attorney guardian ad litem is available.

(7) The court is responsible for all costs resulting from the appointment of an attorney guardian ad litem and shall use funds appropriated by the Legislature for the guardian ad litem program to cover those costs.

(8) An attorney guardian ad litem appointed in accordance with the requirements of this section and Chapter 6, Part 9, Guardian ad Litem, is, when serving in the scope of duties of an attorney guardian ad litem, considered an employee of this state for purposes of indemnification under the Governmental Immunity Act.

Renumbered and Amended by Chapter 267, 2014 General Session

78A-2-704. Public policy regarding attorney guardian ad litem -- Training.

(1) An attorney guardian ad litem may not presume that a child and the child's parent are adversaries.

(2) An attorney guardian ad litem shall be trained on and implement into practice:

(a) the parental rights and child and family protection principles provided in Section 62A-4a-201;

(b) the fundamental liberties of parents and the public policy of the state to support family unification to the fullest extent possible;

(c) the constitutionally protected rights of parents, in cases where the state is a party;

(d) the use of a least restrictive means analysis regarding state claims of a compelling child welfare interest;

(e) the priority of maintaining a child safely in the child's home, whenever possible;

(f) the importance of:

(i) kinship placement, in the event the child is removed from the home; and

(ii) keeping sibling groups together, whenever practicable and in the best interests of the children;

(g) the preference for kinship adoption over nonkinship adoption, if the parent-child relationship is legally terminated;

(h) the potential for a guardianship placement if the parent-child relationship is legally terminated and no appropriate adoption placement is available; and

(i) the use of an individualized permanency plan, only as a last resort.

(3) The office shall implement policies and practice guidelines that reflect the priorities described in Subsections (2)(e) through (i) for the placement of children.

Renumbered and Amended by Chapter 267, 2014 General Session

78A-2-705. Private attorney guardian ad litem -- Appointment -- Costs and fees -- Duties -- Conflicts of interest -- Pro bono obligation -- Indemnification -- Minimum qualifications.

(1) The court may appoint an attorney as a private attorney guardian ad litem to represent the best interests of the minor in any district court action when:

(a) child abuse, child sexual abuse, or neglect is alleged in any proceeding, and the court has made a finding that an adult party is not indigent, as defined by Section 77-32-202; or

(b) the custody of, or parent-time with, a child is at issue.

(2) (a) The court shall consider the limited number of eligible private attorneys guardian ad litem, as well as the limited time and resources available to a private attorney guardian ad litem, when making an appointment under Subsection (1) and prioritize case assignments accordingly.

(b) The court shall make findings regarding the need and basis for the appointment of a private attorney guardian ad litem.

(c) A court may not appoint a private attorney guardian ad litem in a criminal case.

(3) (a) If the parties stipulate to a private attorney guardian ad litem, the office

shall assign the stipulated private attorney guardian ad litem to the case in accordance with this section.

(b) If, under Subsection (3)(a), the parties have not stipulated to a private attorney guardian ad litem, or if the stipulated private attorney guardian ad litem is unable to take the case, the court shall appoint a private attorney guardian ad litem in accordance with Subsection (3)(c).

(c) The court shall state in an order that the court is appointing a private attorney guardian ad litem, to be assigned by the office, to represent the best interests of the child in the matter.

(d) The court shall send the order described in Subsection (3)(c) to the office, in care of the Private Attorney Guardian ad Litem program.

(4) The court shall:

(a) specify in the order appointing a private attorney guardian ad litem the specific issues in the proceeding that the private attorney guardian ad litem shall be involved in resolving, which may include issues relating to the custody of the child and a parent-time schedule;

(b) to the extent possible, bifurcate the issues described in Subsection (4)(a) from the other issues in the case in order to minimize the time constraints placed upon the private attorney guardian ad litem; and

(c) except as provided in Subsection (6), issue a final order within one year after the day on which the private attorney guardian ad litem is appointed in the case:

(i) resolving the issues described in Subsection (4)(a); and

(ii) terminating the private attorney guardian ad litem from the appointment to the case.

(5) The court shall issue an order terminating the appointment of a private attorney guardian ad litem made under this section if:

(a) after receiving input from the private attorney guardian ad litem, the court determines that the minor no longer requires the services of the private attorney guardian ad litem; or

(b) there has been no activity in the case for a period of six consecutive months.

(6) A court may issue an order extending the one-year period described in Subsection (4)(c) for a specified amount of time if the court makes a written finding that there is a compelling reason that the court cannot comply with the requirements described in Subsection (4)(c) within the one-year period.

(7) When appointing a private attorney guardian ad litem under this section, a court may appoint the same private attorney guardian ad litem who represents the minor in another proceeding, or who has represented the minor in a previous proceeding, if that private attorney guardian ad litem is available.

(8) (a) Upon receipt of the court's order, described in Subsections (3)(c) and (d), the office shall assign the case to a private attorney guardian ad litem, if available, in accordance with this section.

(b) (i) If, after the initial assignment of a private attorney guardian ad litem, either party objects to the assigned private attorney guardian ad litem, that party may file an objection with the court within seven days after the day on which the party received notice of the assigned private attorney guardian ad litem.

(ii) If, after the initial assignment of a private attorney guardian ad litem, either

attorney for a party discovers that the private attorney guardian ad litem represents an adverse party in a separate matter, that attorney may file an objection with the court within seven days after the day on which the attorney received notice of the private attorney guardian ad litem's representation of an adverse party in a separate matter.

(iii) Upon receipt of an objection, the court shall determine whether grounds exist for the objection, and if grounds exist, the court shall order, without a hearing, the office to assign a new private attorney guardian ad litem, in consultation with the parties and in accordance with this section.

(iv) If no alternative private attorney guardian ad litem is available, the office shall notify the court.

(9) (a) When appointing a private attorney guardian ad litem, the court shall:

(i) assess all or part of the private attorney guardian ad litem fees, court costs, and paralegal, staff, and volunteer expenses against the parties in a proportion the court determines to be just; and

(ii) designate in the order whether the private attorney guardian ad litem shall, as established by rule under Subsection (17):

(A) be paid a set fee and initial retainer;

(B) not be paid and serve pro bono; or

(C) be paid at a rate less than the set fee established by court rule.

(b) If a party claims to be impecunious, the court shall follow the procedure and make a determination, described in Section 78A-2-302, to set the amount that the party is required to pay, if any, toward the private attorney guardian ad litem's fees and expenses.

(c) The private attorney guardian ad litem may adjust the court-ordered fees or retainer to an amount less than what was ordered by the court at any time before being released from representation by the court.

(10) Upon accepting the court's appointment, the assigned private attorney guardian ad litem shall:

(a) file a notice of appearance with the court within five business days of the day on which the attorney was assigned; and

(b) represent the best interests of the minor until released by the court.

(11) The private attorney guardian ad litem:

(a) shall be certified by the director of the office as meeting the minimum qualifications for appointment; and

(b) may not be employed by, or under contract with, the office unless under contract as a conflict private attorney guardian ad litem in an unrelated case.

(12) The private attorney guardian ad litem appointed under the provisions of this section shall:

(a) represent the best interests of the minor from the date of the appointment until released by the court;

(b) conduct or supervise an ongoing, independent investigation in order to obtain, first-hand, a clear understanding of the situation and needs of the minor;

(c) interview witnesses and review relevant records pertaining to the minor and the minor's family, including medical, psychological, and school records;

(d) (i) personally meet with the minor, unless:

(A) the minor is outside of the state; or

- (B) meeting with the minor would be detrimental to the minor;
- (ii) personally interview the minor, unless:
 - (A) the minor is not old enough to communicate;
 - (B) the minor lacks the capacity to participate in a meaningful interview; or
 - (C) the interview would be detrimental to the minor;
- (iii) to the extent possible, determine the minor's goals and concerns regarding custody or visitation; and
- (iv) to the extent possible, and unless it would be detrimental to the minor, keep the minor advised of:
 - (A) the status of the minor's case;
 - (B) all court and administrative proceedings;
 - (C) discussions with, and proposals made by, other parties;
 - (D) court action; and
 - (E) the psychiatric, medical, or other treatment or diagnostic services that are to be provided to the minor;
- (e) unless excused by the court, prepare for and attend all mediation hearings and all court conferences and hearings, and present witnesses and exhibits as necessary to protect the best interests of the minor;
- (f) identify community resources to protect the best interests of the minor and advocate for those resources; and
- (g) participate in all appeals unless excused by the court.

(13) (a) The private attorney guardian ad litem shall represent the best interests of a minor.

(b) If the minor's intent and desires differ from the private attorney guardian ad litem's determination of the minor's best interests, the private attorney guardian ad litem shall communicate to the court the minor's intent and desires and the private attorney guardian ad litem's determination of the minor's best interests.

(c) A difference between the minor's intent and desires and the private attorney guardian ad litem's determination of best interests is not sufficient to create a conflict of interest.

(d) The private attorney guardian ad litem shall disclose the intent and desires of the minor unless the minor:

- (i) instructs the private attorney guardian ad litem to not disclose the minor's intent and desires; or
- (ii) has not expressed an intent and desire.

(e) The court may appoint one private attorney guardian ad litem to represent the best interests of more than one child of a marriage.

(14) In every court hearing where the private attorney guardian ad litem makes a recommendation regarding the best interest of the minor, the court shall require the private attorney guardian ad litem to disclose the factors that form the basis of the recommendation.

(15) A private attorney guardian ad litem appointed under this section is immune from any civil liability that might result by reason of acts performed within the scope of duties of the private attorney guardian ad litem.

(16) The office and the Guardian ad Litem Oversight Committee shall compile a list of attorneys willing to accept an appointment as a private attorney guardian ad litem.

(17) Upon the advice of the director and the Guardian ad Litem Oversight Committee, the Judicial Council shall establish by rule:

(a) the minimum qualifications and requirements for appointment by the court as a private attorney guardian ad litem;

(b) the standard fee rate and retainer amount for a private attorney guardian ad litem;

(c) the percentage of cases a private attorney guardian ad litem may be expected to take on pro bono;

(d) a system to:

(i) select a private attorney guardian ad litem for a given appointment; and

(ii) determine when a private attorney guardian ad litem shall be expected to accept an appointment pro bono; and

(e) the process for handling a complaint relating to the eligibility status of a private attorney guardian ad litem.

(18) (a) Any savings that result from assigning a private attorney guardian ad litem in a district court case, instead of an office guardian ad litem, shall be applied to the office to recruit and train attorneys for the private attorney guardian ad litem program.

(b) After complying with Subsection (18)(a), the office shall use any additional savings to reduce caseloads and improve current practices in juvenile court.

Renumbered and Amended by Chapter 267, 2014 General Session